IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6108 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

C.L.GUPTA

Versus

NAVNITLAL DHANJIBHAI PARIKH

Appearance:

MR JV MEHTA for Petitioner

NOTICE SERVED for Respondent No. 1

MR SV RAJU for Respondent No. 2

Mr KC Shah AGP for Respondent No. 8

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 18/02/2000

ORAL JUDGEMENT

Today, when this matter was called out thrice, Mr. Mehta, learned advocate appearing for the petitioner

has not remained present before this court. Notice of rule has been served to the respondent No. 1 and Mr. S.V. Raju, learned advocate is appearing for respondents nos. 2 to 7. Mr. K.C.Shah,learned Asstt. G.P. is appearing for respondent No. 8. The matter was, therefore, heard in absence of the learned advocate for the petitioner.

2. In the present petition, the petitioner has challenged the jurisdiction of the respondent No. 1 Tribunal constituted under the Bombay Primary Education Act, 1947 on the ground that prior to November, 26,1987, the date on which the order dated January 23,1987 was published in the Government Gazette, the tribunal had no jurisdiction and/or authority to entertain any application or pass any orders thereon prior thereto. The present petition is, thus, filed against the ad interim order passed by the Tribunal in an application No. 126 of 1987. This Court, while admitting this petition, has granted ad interim stay in terms of paragraph 17(c) of the petition on 7th September, 1988. The learned counsel appearing for the respondent has submitted that now, the point in issue has been covered by the decision of the Division Bench of this Court reported in 1989 (1) GLR pg. 1. This Court, in the matter of Ahmedabad Khangi Prathmik Shala Sanchalak Sangh v. State of Gujarat & Anr. reported in 1989 (1) GLR 1, has held that there cannot be any invalidity in the constitution of the tribunal on and from January 23, 1987 and, therefore, considering the said decision of the Division Bench of this Court, the tribunal which has been constituted by the order dated 23rd January, 1987 is having effect from the same date and not from the date on which the said notification has been published in the Gazette of the Government of Gujarat dated 26th November, 1987. Therefore, in view of the said decision, this petition cannot be entertained now. The present petition is, therefore, required to be dismissed as covered by the aforesaid decision of this Court. Accordingly, this petition is dismissed. Rule is discharged. Ad interim relief granted earlier shall stand vacated with no order as to costs.

Since the Application No. 126 of 1987 is pending before the Tribunal since more than 13 years, it would be in the interest of justice to direct the tribunal to hear and decide the said application within some fixed period. Accordingly, the tribunal is directed to expedite the hearing of the said application and hear and decide the same as expeditiously as possible, preferably within the period of six months from the date of receipt of writ of

this Court.

18.2.2000. (H.K.Rathod,J.)

Vyas